

NORTH CAROLINA  
DURHAM COUNTY

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
18 CVS       

2018 DEC -6 P 3:51

DEBORAH FRIEDMAN )

v. )

DURHAM CITY COUNCIL and )  
STEVE SCHEWEL, mayor, )  
JILLIAN JOHNSON, mayor pro )  
tem, VERNETTA ALSTON, )  
JAVIERA CABELLARO, )  
DEDREANA FREEMAN, )  
MARK-ANTHONY MIDDLETON, )  
and CHARLIE REECE, all in their )  
official capacities as officials of the )  
City of Durham and members of the )  
Durham City Council )

DURHAM CO., C.S.C.  
BY VERIFIED COMPLAINT

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The Plaintiff, complaining of the Defendants and upon information and belief, alleges and says:

1. Plaintiff Deborah Friedman is a resident of Durham County.
2. The defendants are the City Council, public officials and individual members of the City Council of the City of Durham ("Council"). The Council is an agency of North Carolina government within the meaning of North Carolina's Open Meetings Law, G.S. § 143-318.10 et seq.
3. This is an action pursuant to Article 33C of Chapter 143 of the General Statutes of North Carolina, "Meetings of Public Bodies," the public policy of which as stated in G.S. § 143-318.9 is as follows: "Whereas the public bodies that administer the ... policy making ... functions of North Carolina and its political subdivisions exist solely to conduct the people's business, it is

the public policy of North Carolina that the hearings, deliberations and actions of these bodies be conducted openly.”

4. The Durham City Council is a body that consists of seven members – the mayor and six council members.

5. Upon information and belief, prior to April 2018 no items were placed on city council’s agenda addressing establishment of a city policy covering police training with departments or agencies in foreign countries.

6. On April 3, 2018, city council members received an email from members of an organization called “Demilitarize Durham2Palestine” calling on the council to place a resolution on its April 5 work session agenda that would address police training exchanges with agencies in other countries generally and Israel specifically.

7. On April 5, 2018, at 12:54 a.m., using a personal email account, Mayor Steve Schewel emailed an electronic document titled “Statement on policing from the Durham City Council” to the personal email accounts of council members DeDreana Freeman, Jillian Johnson and Mark-Anthony Middleton.

8. In the body of the 12:54 a.m. message Schewel wrote:

“Dear DeDreana, Jillian and Mark-Anthony,  
Please see two attachments prior to the work session.  
First is Chief Davis’ memo to Tom Bonfield.  
Second is a statement I have written and will introduce today during the  
Announcements section of the work session. I have labored long and hard over it  
and I hope it meets your approval. My plan is to introduce it at the work session  
and put it on the agenda for council approval on April 16. I am sure the public  
will want to discuss it then.  
Thanks to all of you for your one-on-one discussions this past week.  
Best wishes,  
Steve.”

A copy of the email is attached as Exhibit A.

9. On April 5, 2018, at 12:56 a.m., using a personal email account, Schewel emailed an electronic document titled "Statement on policing from the Durham City Council" to the personal email accounts of council members Vernetta Alston, Charlie Reece and Javiera Caballero.

10. In the body of the 12:56 a.m. email, Schewel wrote:

"Vernetta, Charlie and Javiera,  
Please see two attachments prior to the work session.  
First is Chief Davis' memo to Tom Bonfield.  
Second is a statement I have written and will introduce today during the  
Announcements section of the work session. I have labored long and hard over it  
and I hope it meets your approval. My plan is to introduce it at the work session  
and put it on the agenda for council approval on April 16. I am sure the public  
will want to discuss it then.  
Thanks to all of you for your one-on-one discussions this past week.  
Best wishes,  
Steve."

A copy of the email is attached as Exhibit B

11. At the council's scheduled April 5, 2018 work session the council listened to several speakers from the public about the issue of police exchanges but did not publicly discuss the statement.

12. At the council's regularly scheduled April 16, 2018 business meeting, more than two hours of public comment were taken on the issue of police exchanges. Schewel read into the record the statement as previously circulated to council members in the early morning hours of April 5. After public comment, the statement was unanimously approved with one council member, Alston, not present.

13. The Open Meetings Law requires adequate notice be given for all meetings. G.S. § 143-318.12

14. The Open Meetings Law requires public access be provided for all meetings convened by electronic means. G.S. § 143-318.13(a)

15. The Open Meetings Law defines an “official meeting” as “a meeting, assembly, or gathering together at any time or place or the simultaneous communication by conference telephone or other electronic means of a majority of the members of a public body for the purpose of conducting hearings, participating in deliberations, or voting upon or otherwise transacting the public business ...” G.S. § 143-318.10(d)

16. No public notice was provided for the electronic meeting Mayor Schewel convened with a majority of Council at 12:54 a.m., April 5, 2018.

17. No public notice was provided for the electronic meeting Mayor Schewel convened with a majority of Council at 12:56 a.m., April 5, 2018.

18. No public access was provided for the electronic meeting Mayor Schewel convened with a majority of Council at 12:54 a.m., April 5, 2018.

19. No public access was provided for the electronic meeting Mayor Schewel convened with a majority of Council at 12:56 a.m., April 5, 2018.

20. On information and belief, city council members continue to transact city business via personal email.

21. A draft report examining the Council’s decision to approve the statement on policing prepared by the Durham Human Relations Commission, encourages the Council to stop using personal email to conduct city business. The draft report is attached as Exhibit C.

22. The actions of the defendants set out above are in violation of the Open Meetings Law, G.S. § 143.318.9 to 143-318.18.

23. Irreparable injury to the Plaintiff and the public through further impairment of their knowledge and understanding of the people's business as alleged above will occur unless the defendants are enjoined from continuing and recurring violations of the Open Meetings Law.

24. Pursuant to G.S. § 143-318.16(a), this Court is authorized to grant injunctive relief to enjoin the recurrence of similar violations of the law.

25. This Court is also authorized to enjoin future similar violations of the Open Meetings Law by the Council.

26. Pursuant to G.S. § 143-318.16A, this Court is authorized to enter a judgement declaring that the actions taken by the defendants on April 5, 2018 were in violation of the Open Meetings Law. In addition, pursuant to the Open Meetings law, this Court is authorized to declare that any action taken, considered, discussed, or deliberated in violation of the Open Meetings Law to be null and void.

27. Pursuant to G.S. § 143-318.16B the Court is authorized to award attorney's fees and costs to the plaintiff if the plaintiff prevails in this action.

WHEREFORE, Plaintiff prays the judgement of the court as follows:

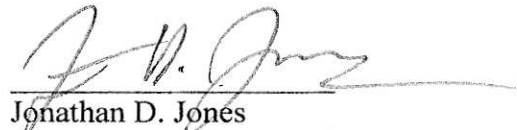
1. For judgment declaring the above described simultaneous email communication among a majority of council members were official meetings of the Durham City Council in violation of the Open Meetings Law and declaring that any action taken, considered, discussed or deliberated as a result is null and void.

2. For a preliminary and permanent injunction enjoining the defendants from holding electronic meetings via personal email and excluding the public.

3. For an award of attorney's fees and costs incurred by Plaintiff in securing the requested relief.

4. For such other and further relief as the Court may deem just and proper.

This is the 6th day of December, 2018.

A handwritten signature in black ink, appearing to read "J.D. Jones", is written over a horizontal line.

Jonathan D. Jones  
N.C. State Bar No: 42958  
J.D. JONES LAW, PLLC  
123 W. Main St., Suite 225  
P.O. Box 3328  
Durham, N.C. 27702  
Telephone: (919) 937-2555  
Facsimile: (919) 551-8578

VERIFICATION

Deborah Friedman, being first duly sworn, deposes and says that she has read the foregoing Complaint and that the same is true of her own knowledge except as those matters and things therein stated upon information and belief as to those matters and things, she believes them to be true.

  
Deborah Friedman

Sworn to and subscribed before me, by  
DEBORAH FRIEDMAN, this the  
6th day of December, 2018

  
NOTARY PUBLIC

My Commission Expires 10/13/19

Anthony Dwight House  
NOTARY PUBLIC  
Durham County, North Carolina  
My Commission Expires 10/13/2019

See two attachments re response to petition concerning israel

Steve Schewel <steveschewel@gmail.com>

Thu 4/5/2018 12:54 AM

To: DeDreana Freeman <equitableequality@gmail.com>; Jillian Johnson <jillylovesdurham@gmail.com>; Mark-Anthony Middleton <middletonma@hotmail.com>;

2 attachments (321 KB)

Chief Davis memo.jpeg; Statement on policing from the Durham City Council.docx;

DeDreana, Jillian and Mark-Anthony,

Please see two attachments prior to the work session.

First is Chief Davis memo to Tom Bonfield.

Second is a statement I have written and will introduce today during the Announcements section of the work session. I have labored long and hard over it and I hope it meets your approval. My plan is to introduce it at the work session and put it on the agenda for council approval on April 16. I am sure the public will want to discuss it then.

Thanks to all of you for your one-on-one discussions this past week.

Best wishes,  
Steve

--  
Steve Schewel  
Mayor, City of Durham

101 City Hall Plaza

Durham, NC 27701

(919) 560-4333  
steve.schewel@durhamnc.gov

5/17/2018

Gmail - See two attachments re response to petition re Israel

Exhibit 15



Charlie Reece <charliereece@gmail.com>

## See two attachments re response to petition re Israel

3 messages

Steve Schewel <steveschewel@gmail.com>

Thu, Apr 5, 2018 at 12:56 AM

To: Vernetta Alston <vernetta.alston@gmail.com>, Charlie Reece <charliereece@gmail.com>, Javiera Caballero <ajavcaballero@yahoo.com>

Dear Vernetta, Charlie and Javiera,

Please see two attachments prior to the work session.

First is Chief Davis' memo to Tom Bonfield.

Second is a statement I have written and will introduce today during the Announcements section of the work session. I have labored long and hard over it and I hope it meets your approval. My plan is to introduce it at the work session and put it on the agenda for council approval on April 16. I am sure the public will want to discuss it then.

Thanks to all of you for your one-on-one discussions this past week.

Best wishes,  
Steve

--  
Steve Schewel  
Mayor, City of Durham

101 City Hall Plaza  
Durham, NC 27701

(919) 560-4333  
steve.schewel@durhamnc.gov

### 2 attachments



Chief Davis memo.jpeg  
291K

Statement on policing from the Durham City Council.docx  
15K

Javiera Caballero <ajavcaballero@yahoo.com>

Thu, Apr 5, 2018 at 12:31 PM

To: Vernetta Alston <vernetta.alston@gmail.com>, Charlie Reece <charliereece@gmail.com>, Steve Schewel <steveschewel@gmail.com>

Thanks for this Steve, and I support both documents. We'll see how this all goes over at the work session.

[Quoted text hidden]